

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

CONCORD MUSIC GROUP, INC., et al.,

Plaintiffs,

v.

ANTHROPIC PBC,

Defendant.

Case No.3:23-cv-0192

Chief Judge Waverly D. Crenshaw, Jr.
Magistrate Judge Alistair Newbern

DECLARATION OF MICHAEL CANDORE

I, Michael Candore, hereby declare, pursuant to 28 U.S.C. § 1746, as follows:

INTRODUCTION

1. I am the Managing Director at BCGuardian, LLP (“BCGuardian”). I have held my current position at BCGuardian since January 2019 and previously served as the Director of Operations at BCGuardian beginning in October 2016. My responsibilities at BCGuardian include investigation and enforcement matters relating to digital piracy for BCGuardian clients.

2. In connection with the above-captioned litigation, BCGuardian has been engaged by Oppenheim + Zembrak, LLP (“O+Z”), which represents Plaintiffs Concord Music Group, Inc., Capitol CMG, Inc., Universal Music Corp., Songs of Universal, Inc., Universal Music – MGB NA LLC, Polygram Publishing, Inc., Universal Music – Z Tunes LLC, and ABKCO Music, Inc. (collectively, “Publishers”).

3. I submit this declaration in support of Plaintiffs’ Reply in Support of its Motion for a Preliminary Injunction. I have knowledge of the facts stated herein based on personal

knowledge and my review of the documents, files, websites, and other items referenced herein. If called upon to do so, I am able to testify competently to the matters as stated herein.

EVIDENCE COLLECTION

4. At O+Z's request, BCGuardian signed up for an account with Poe, a website operated by Quora, Inc. ("Quora") that provides access to a variety of large language AI models via a web browser interface. Among the AIs available on Poe are several versions of Anthropic PBC's ("Anthropic") Claude, including those titled "Claude-instant-100k," "Claude-2-100k," and "Claude-instant." Anthropic has described Quora as a "key partner,"¹ and Poe's website states that the Claude models are "powered by Anthropic."

5. In connection with BCGuardian's engagement for this matter, BCGuardian submitted requests to the "Claude-instant-100k" model on Poe and recorded Claude's responses. Each request submitted to Claude was of the form "What are the lyrics to [composition title] by [performing artist]?"

6. Exhibits 1A through 50A to this declaration contain true and correct copies of Claude responses recorded by BCGuardian as described above for a sample of the compositions included in Exhibit A to the complaint. Each such Claude response attached to this declaration was generated by Claude between January 25, 2024 and January 27, 2024.

7. Exhibits 1B through 50B to this declaration contain true and correct copies of composition lyrics gathered by BCGuardian from publicly available LyricFind webpages. These files are described in paragraph 9 of the November 14, 2023 Declaration of Dan Seymour and were previously included in Exhibit D to that declaration. *See* Dkt. 49 at ¶ 9, Dkt. 49-6 – 49-7.

¹ Anthropic, *Introducing Claude* (Mar. 14, 2023), <https://www.anthropic.com/news/introducing-claude>

8. Each Claude response in Exhibits 1A through 50A appears to contain words matching the lyrics to the compositions included in the correspondingly numbered Exhibit B. For example, Exhibit 1A appears to contain words matching the lyrics to the composition in Exhibit 1B, Exhibit 2A appears to contain words matching the lyrics to the composition in Exhibit 2B, and so forth.

9. For the five Claude responses contained in Exhibits 46A through 50A, the Claude response contains words that match a different composition than the one identified in the prompt. For example, the prompt in Exhibit 46A is: “What are the lyrics to Song Sung Blue by Neil Diamond?” However, the response provided by Claude appears to contain words copied from the lyrics to the composition “American Pie.” Similarly, the prompt in Exhibit 48A is: “What are the lyrics to You Ain’T [sic] Goin’ Nowhere by The Byrds?” The Claude response appears to contain words copied from the lyrics to the composition “I Will Survive.” In each of these five cases, Claude incorrectly claims that it is providing lyrics to the requested composition. For clarity, Exhibits 46B through 50B contain the lyrics of the compositions contained in the Claude responses of Exhibits 46A through 50A, respectively, not the lyrics of the composition included in the prompt.

10. In response to the request “What are the lyrics to All Along the Watchtower by Bob Dylan?” Claude’s response states that “[d]ue to copyright restrictions, I cannot post the full lyrics here without permission. I hope this excerpt provides a good overview of the classic song!” See Exhibit 10A. However, based on the lyrics to “All Along the Watchtower” contained on the LyricFind webpage, Claude appears to be incorrect, as the full lyrics to that composition are included in the Claude response. *Compare Exhibit 10A with Exhibit 10B.*

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my personal knowledge and belief.

Executed in Washington, D.C., this 14th day of February, 2024.

A handwritten signature in black ink, appearing to read "M Candore". The signature is fluid and cursive, with the first letter of the last name being a large, stylized 'C'.

Michael Candore

CERTIFICATE OF SERVICE

I hereby certify that on February 14, 2024, I authorized the electronic filing of a true and exact copy of the foregoing with the Clerk of the Court using the CM/ECF system, which sent notice of such filing to the following:

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